

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * *

AAA, et al.,

Plaintiffs,

V

CLARK COUNTY SCHOOL DISTRICT, et al.,

Defendants.

Case No. 2:20-cv-00195-JAD-BNW

ORDER

This order responds to Plaintiff's Motion for Relief (ECF No. 66) and intends to clarify what the Discovery Plan and Scheduling Order (DPSO) is intended to include based on the hearing held on April 22, 2020. ECF No. 51. This court always intended for both defendants Clark County School District and Dr. Davis to disclose certain metadata (as discussed in court) to the extent any such metadata is available. It now orders defendant Dr. Davis to file a proposed discovery plan and scheduling order that includes both defendants in subsection (C), entitled "Issues about Disclosure, Discovery, or Preservation of Electronically Stored Information."

By way of background, this court held a hearing on April 22, 2020 to resolve competing proposed DPSOs (ECF Nos. 46 and 47). At the conclusion of that hearing, this court requested counsel for Dr. Davis to file a new DPSO that contained the rulings as announced in court. On April 24, 2020, counsel for Dr. Davis filed a DPSO. ECF No. 52. Section (C) of that DPSO did not subject defendant Dr. Davis to the production of metadata; instead it only included defendant Clark County School District in that section. That same day, Plaintiff filed a different version of the DPSO, which included the requirement that Dr. Davis produce metadata. On April 30, 2020, this court looked at the DPSO the court had ordered defendant Dr. Davis to submit (submitted as ECF No. 52) and adopted it. ECF No. 54.

1 Plaintiff immediately filed an objection to "ECF No. 52." ECF No. 55. As reflected in the
2 minutes entered on May 1, 2020, this court was under the impression Plaintiff was objecting to
3 the lack of consultation on the DPSO submitted by defense counsel. ECF No. 56. This court
4 misunderstood what Plaintiff was objecting to. It is now apparent that he was attempting to fix the
5 prior omission from the DPSO and to ensure that defendant Dr. Davis would also be required to
6 produce certain metadata.

7 On May 5, 2020 Plaintiff filed another motion, "Motion for Defendant Dr. Rachel Davis
8 to be Included in the Discovery Plan and Scheduling Order." ECF No. 57. The court mistakenly
9 understood the request as the Plaintiff asserting requests on behalf of defendant Dr. Davis. The
10 court denied that request. ECF No. 61. On review, it is now clear he was making the same request
11 he made in objecting to the governing DPSO.

12 On May 18, 2020, Plaintiff filed a request to obtain relief from the governing DPSO, filed
13 as ECF No. 54. ECF No. 66. The relief requested is what he was seeking all along: for defendant
14 Dr. Davis to be included as a defendant subject to the production of metadata in section (C) of the
15 DPSO. Plaintiff also requests that this court recuse, believing it has a conflict of interest based on
16 these misunderstandings.

17 This court now realizes what Plaintiff was trying to accomplish through the different
18 filings. Again, the court always intended for both defendants Clark County School District and
19 Dr. Davis to produce metadata as to specific documents (as discussed in court) if available. As a
20 result, the operative DPSO (ECF No. 54) does not capture the intent of this court's rulings during
21 the April 22, 2020 hearing. As such, the court will order defendant Dr. Davis to file a new DPSO
22 containing both defendants in subsection (C). If after this explanation Plaintiff still believes the
23 undersigned should recuse, he must file a separate motion indicating the reasons for that request
24 by May 29, 2020. Accordingly,

25 **IT IS ORDERED** that Motion for Relief (ECF No. 66) is GRANTED in part and
26 DENIED in part. It is granted to the extent that the court will order the defendant to file a new
27 DPSO, as outlined below. It is denied in all other respects.

IT IS FURTHER ORDERED that defendant Dr. Davis is to file a new DPSO. The only difference between the DPSO at ECF No. 54 and the new DPSO defendant is to file is that subsection (C) must contain both defendants: Clark County School District and Dr. Davis.

IT IS FURTHER ORDERED that if Plaintiff wishes to file a motion for the undersigned to recuse, he must do so by May 29, 2020.

DATED: May 20, 2020


BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE